

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED

August 27, 2013

In the Matter of K. C. NELMS, Minor.

No. 314328

Wayne Circuit Court

Family Division

LC No. 11-501691-NA

Before: MURPHY, C.J., and MARKEY and RIORDAN, JJ.

PER CURIAM.

Respondent appeals as of right the trial court order terminating her parental rights to the minor child pursuant to MCL 712A.19b(3)(c)(i) (conditions leading to adjudication continue to exist after 182 days of proceedings had elapsed, with no reasonable likelihood that conditions will be rectified within a reasonable time), (g) (failure to provide proper care or custody and no reasonable expectation that parent will be able to do so within a reasonable time), and (j) (reasonable likelihood of harm to the child if returned to the parent). We affirm.

If a trial court finds that a single statutory ground for termination has been established by clear and convincing evidence and that it has been proven by a preponderance of the evidence that termination of parental rights is in the best interests of a child, the court is mandated to terminate a respondent's parental rights to that child. MCL 712A.19b(3) and (5); *In re Ellis*, 294 Mich App 30, 32; 817 NW2d 111 (2011); *In re Moss Minors*, __ Mich App __; __ NW2d __, issued May 9, 2013 (Docket No. 311610), slip op at 3. "This Court reviews for clear error the trial court's ruling that a statutory ground for termination has been established and its ruling that termination is in the children's best interests." *In re Hudson*, 294 Mich App 261, 264; 817 NW2d 115 (2011); see also MCR 3.977(K). "A finding is clearly erroneous if, although there is evidence to support it, we are left with a definite and firm conviction that a mistake has been made." *In re HRC*, 286 Mich App 444, 459; 781 NW2d 105 (2009). In applying the clear error standard in parental termination cases, "regard is to be given to the special opportunity of the trial court to judge the credibility of the witnesses who appeared before it." *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

The trial court did not clearly err in terminating respondent's parental rights under MCL 712A.19b(3)(c)(i), (g), and (j). At the time the child was adjudicated a temporary court ward, respondent was still a minor and was herself a temporary court ward. Respondent was dealing with issues of emotional instability and had not demonstrated that she was responsible enough to care for a young child. Indeed, the record reflects that she was not capable of adequately and

properly caring for herself, let alone the child. Respondent was provided with a case treatment plan to help her learn to appropriately parent and recognize the impact her behavior was having on her child. Despite some participation in services, respondent continued to repeat the same behaviors she experienced with her own mother. For example, throughout the case, respondent subjected her child to verbal and behavioral aggression. Further, although respondent was often affectionate with the child, her behavior had become more problematic over time.

Respondent had years of therapy as a child, which began before her daughter's birth. This therapy did not improve respondent's sullen attitude and defiant behavior. Respondent was unable to conform her behavior to what was expected, and she did not stay in placement or go to work when she had a summer job. Respondent did not follow the rules of school, did not always go to school when enrolled, and never made progress on her education. She had not achieved emotional stability so that her daughter could safely be returned to her care. She attended some therapy sessions but did not sufficiently benefit from therapy to where she could adequately parent her child. A parent must benefit from services to the point where the child would no longer be at risk in the parent's custody. *In re Gazella*, 264 Mich App 668, 676; 692 NW2d 708 (2005).

Given respondent's emotional instability and continual defiance and obstinate behavior, the child would be at risk of harm in her care. Respondent disregarded warnings of caseworkers and therapists and brought her child around unfamiliar men in unfamiliar locations without the knowledge or consent of those responsible for her. In one instance, respondent went to the home of a man that she had met on a phone chat line and had sexual intercourse with him while the child was there. On another occasion, respondent went down to Tennessee because a man promised her employment in the state. Respondent's mother testified that she became concerned after respondent informed her that she was being held against her will and forced to watch pornography. After police in Tennessee located and temporarily placed respondent in a Tennessee foster home, she was moved to a different foster home after being caught in bed with a male foster child in the first home.

At the time of the termination hearing, respondent was living in her mother's house. Despite respondent's assertions to the contrary, the evidence showed that respondent's relationship with her mother continued to be violent, disturbed, and chaotic. Respondent would not be able to provide a safe and nurturing home environment while living with her mother, and exposing the child to this dysfunctional relationship would compromise the child emotionally. Thus, the trial court did not err in finding that MCL 712A.19b(3)(c)(i), (g), and (j) had been established by clear and convincing evidence. Contrary to respondent's argument, and given her pattern of behavior, the court did not err in failing to give her more time to straighten up and resolve her issues, such that she would be ready to properly parent the child within a reasonable time.

The court also did not clearly err in finding that termination of respondent's parental rights was in the best interests of the child. MCL 712A.19b(5). Respondent was unable to care for her daughter and provide her with stability. The child was young, just over two years old when the termination order was entered, and had waited her whole life for respondent to achieve emotional stability and reliability. There had been little evidence of a healthy infant-parent attachment relationship, and respondent had not responded appropriately to the child. Because

respondent had not addressed the issues that would put her child at risk of harm, termination of respondent's parental rights was in the child's best interests.

Moreover, contrary to respondent's argument in her brief on appeal, neither guardianship nor placement with a maternal relative was an option in lieu of termination of parental rights. The maternal grandmother was on the CPS Central Registry and was therefore unfit to care for her grandchild. Respondent's sister was given appropriate consideration but was unable to provide care for the child because her husband had a criminal history, she had a volatile relationship with her husband, and she had five young children herself. Further, she had not come forward to the court to request placement. The great aunt mentioned by respondent had also never presented herself as a potential placement for the child.

It is in the child's best interests to be raised by someone who can provide her with a stable and safe home. If a parent cannot or will not meet her minimum parental responsibilities, the needs of the child must prevail over the needs of the parent. *In re Terry* 240 Mich App 14, 28; 610 NW2d 563 (2000). Given this child's young age and respondent's inability to achieve stability in the near future, termination of parental rights was the only feasible option. Thus, the court did not clearly err in its best-interest determination.

Affirmed.

/s/ William B. Murphy
/s/ Jane E. Markey
/s/ Michael J. Riordan